

REMARKSStatus of Claims

Claims 1-5 and 9-11 are pending in the instant application. Claims 1-5 and 9-11 stand rejected. Favorable reconsideration is respectfully requested in light of the following remarks.

Rejection of claims 1-5 and 9-11 under 35 USC 103(a) (McBride or AAPA in view of Briggs)

Claims 1-5 and 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McBride or Applicant's Admitted Prior Art (AAPA) in view of Briggs. The Examiner states that it would have been obvious to a person having ordinary skill in the art to utilize the LDPE adhesive of Briggs in the laminate of McBride or AAPA.

Neither McBride, AAPA nor Briggs teach or suggest "a flexible planar laminate comprising a layer of kraft paper to which is adhered a vapor barrier layer...to which is adhered an adhesive layer of low density polyethylene (LDPE)" as Applicants claim. The references fail to teach or suggest Applicant's claimed materials adhered together in the manner as Applicant has claimed and further having the claimed water vapor transmission rates.

McBride teaches an insulation assembly having exterior covers on opposite sides of the insulation. The exterior covers may be polyethylene, kraft paper or Mylar (cols. 4-5, lines 65-5). AAPA teach a glass wool blanket having a kraft paper/polyethylene vapor barrier. Briggs teach a rigid foam product which is faced with metal foil. Applicants respectfully submit that the cited references do not teach or suggest all of Applicant's claim limitations. As such, the criterion for establishing prima facie case of obviousness has not been met.

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the applied reference(s) must teach or suggest all the claim limitations. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Further, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. See MPEP §2143.

It would not have been obvious to one of ordinary skill in the art to utilize the LDPE adhesive of Briggs in the laminate of McBride or AAPA for the reasons above. Accordingly, it is respectfully requested that the 103(a) rejection of claims 1-5 and 9-11 be withdrawn.

**Rejection of claims 1-5 and 9-11 under 35 USC 103(a) (Patel et al. and Berdan II et al.)**

Claims 1-5 and 9-11 stand rejected under 35 USC 103(a) as being unpatentable over Patel et al. and Berdan II et al.

The Examiner states that it would have been obvious to a person having ordinary skill in the art to utilize a kraft layer in the insulation of Patel or Berdan II. The Examiner further states that such a modification would have been motivated by the desire to improve the product integrity and handleability of the insulation.

Neither Patel et al. nor Berdan II teach or suggest “a flexible planar laminate comprising a layer of kraft paper to which is adhered a vapor barrier layer...to which is adhered an adhesive layer of low density polyethylene (LDPE)” as Applicants claim. The references fail to teach or suggest Applicant’s claimed materials adhered together in the manner as Applicant has claimed and further having the claimed water vapor transmission rates.

Patel et al. teach away from using a kraft/asphalt facing as it is not flexible (col. 6, lines 61-63). Patel et al. teach an insulation product having a dual layer facing (kraft comprising a polymer film and a bonding layer (col. 6, lines 1-3) which provides

flexibility to the insulation product. Berdan II et al. teach an insulation product having a dual layer facing serving as a vapor layer. Berdan II et al. teach an HDPE facing material over a kraft/asphalt facing (col. 7, lines 32-36).

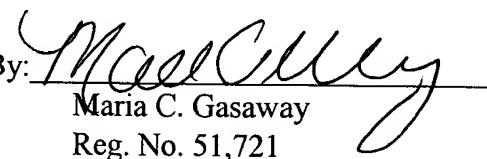
Applicants respectfully submit that the cited references do not teach or suggest all of Applicant's claim limitations. As such, the criterion for establishing prima facie case of obviousness has not been met. Accordingly, it would not have been obvious to a person having ordinary skill in the art to utilize a kraft layer in the insulation of Patel or Berdan II. Accordingly, it is respectfully requested that the 103(a) rejection of claims 1-5 and 9-11 be withdrawn.

### Conclusion

Applicant respectfully submits that claims 1-5 and 9-11 are allowable. If any questions should arise with respect to the above Remarks, or if the Examiner has any comments or suggestions to place the claims in better condition for allowance, it is requested that the Examiner contact Applicant's agent at the number listed below.

Applicant authorizes any fees required pertaining to this response be charged to Deposit Account No. 50-0568.

Respectfully submitted,

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